

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

HENRY T. VALENTINE,

Plaintiff,

v.

**CIVIL ACTION NO. 2:04cv79
(Maxwell)**

**COMMISSIONER, SOCIAL
SECURITY ADMINISTRATION,**

Defendant.

ORDER

It will be recalled that on April 13, 2006, Plaintiff filed a Motion for Attorney Fees under the Equal Access to Justice Act. On April 20, 2006, the Defendant filed a Brief in Opposition to the Motion for Attorney Fees. On April 25, 2006, the Court referred the matter to United States Magistrate Judge John S. Kaull, pursuant to 28 U.S.C. § 636(b)(1)(B), Rule 72(b) of the Federal Rules of Civil Procedure and Local Rule 4.01(d). On August 11, 2006, Magistrate Judge Kaull filed his Report and Recommendation, wherein he recommended granting the Plaintiff's Motion for Attorney Fees and compensating Plaintiff \$2,420.57. The parties were directed in Magistrate Judge Kaull's Report and Recommendation to file with the Clerk of Court any written objections within ten (10) days after being served with a copy.

Upon examination of the Report and Recommendation filed by the Magistrate Judge on August 11, 2006, it appears to the Court that the issues raised in the Motion for Attorney Fees and the Brief filed in opposition thereto were thoroughly considered by Magistrate Judge Kaull. The Court, upon an independent de novo consideration of all matters now before it, is of the opinion that the Report and Recommendation accurately reflects the law applicable to the facts and circumstances before the Court in this matter. The Court finds that Magistrate Judge Kaull's recommendation that the Plaintiff be awarded attorney fees in the amount of \$2,049.84, Plaintiff's requested amount, is more than fair and reasonable.

In considering the Plaintiff's supplemental motion for fees for time spent litigating the EAJA fee, the Court finds that 2.5 hours is a fair and reasonable amount of time to spend supporting an EAJA Motion for Attorney Fees. Adopting Magistrate Judge Kaull's calculations, an additional \$370.73 of compensation shall be awarded to the Plaintiff on his supplemental motion for fees under the act. Therefore, it is hereby

ORDERED that Magistrate Judge Kaull's Report and Recommendation of August 11, 2006 shall be, and the same hereby is, accepted in whole. Accordingly, it is

ORDERED that the Plaintiff's Motion for Attorney Fees under the Equal Access to Justice Act shall be, and the same hereby is **GRANTED**, and Plaintiff's counsel shall be compensated in the amount of \$2,420.57. It is further

ORDERED that Defendant shall pay to Plaintiff's attorney Two Thousand Four Hundred Twenty Dollars and Fifty-Seven Cents (\$2,420.57) in attorney fees.

The Clerk of Court is directed to send a copy of this Order to all counsel of record.

ENTER: September 21st, 2006

/s/ Robert E. Maxwell
United States District Judge